

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN SENATE MARCH 11, 2003

SENATE BILL

No. 83

Introduced by Senators Soto and Romero
(Coauthor: Assembly Member Chavez)

January 23, 2003

An act to amend Sections 53750 and 54984.7 of the Government Code, relating to local agency assessments.

LEGISLATIVE COUNSEL'S DIGEST

SB 83, as amended, Soto. Local agency assessments.

(1) Existing law imposes certain notice, protest, and hearing requirements when a local government agency proposes to impose a new or increased assessment, as defined, upon real property with specified exceptions. Existing law defines the word "increased" as applied to a tax, assessment, or property-related fee or charge, and provides that a tax, fee, or charge is not deemed to be "increased" by an agency action that adjusts the amount of a tax, fee, or charge in accordance with a schedule of adjustments adopted prior to November 6, 1996, or that implements or collects a previously approved tax, fee, or charge, as long as the rate is not increased beyond the level previously approved and the methodology previously approved is not revised so as to result in an increased amount for that levy.

This bill would add assessment to these 2 categories of actions by an agency deemed not to increase a levy.

(2) Existing law establishes a uniform procedure available to any local agency authorized to provide water, sewer, or water and sewer service and authorized to fix, levy, or collect any standby or availability

charge or assessment for provision of that service. Under that law, if the governing body has followed the procedure, it may continue the same charge in subsequent years, by published resolution, and dispense with the mailed notice requirement.

This bill would authorize the governing body to adjust the amount of an assessment in this manner if the adjustment is made in accordance with a schedule of adjustments adopted prior to November 6, 1996, or that implements or collects a previously approved tax, fee, or charge, as long as the rate is not increased beyond the level previously approved and the methodology previously approved is not revised so as to result in an increased amount for that levy. *The bill would provide that dispensing with the mailed notice requirement does not affect any requirement to obtain a lien by recording a notice of lien.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. In enacting this act, it is the intent of the
2 Legislature to allow a local government that properly adopted an
3 assessment or standby charge prior to the effective date of
4 Proposition 218, November 6, 1996, where the assessment or
5 standby charge included a properly adopted schedule of increases,
6 to implement those scheduled increases. It is the further intent of
7 the Legislature that no local government may increase an
8 assessment or standby charge adopted prior to the effective date of
9 Proposition 218, November 6, 1996, where the assessment or
10 standby charge did not include a schedule of increases without
11 following the procedures required in Proposition 218 and its
12 implementing statutes.

13 SEC. 2. Section 53750 of the Government Code is amended
14 to read:

15 53750. For purposes of Article XIII C and Article XIII D of
16 the California Constitution and this article:

17 (a) “Agency” means any local government as defined in
18 subdivision (b) of Section 1 of Article XIII C of the California
19 Constitution.

20 (b) “Assessment” means any levy or charge by an agency upon
21 real property that is based upon the special benefit conferred upon
22 the real property by a public improvement or service, that is



imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. “Assessment” includes, but is not limited to, “special assessment,” “benefit assessment,” “maintenance assessment,” and “special assessment tax.”

(c) “District” means an area that is determined by an agency to contain all of the parcels that will receive a special benefit from a proposed public improvement or service.

(d) “Drainage system” means any system of public improvements that is intended to provide for erosion control, landslide abatement, or for other types of water drainage.

(e) “Extended,” when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date.

(f) “Flood control” means any system of public improvements that is intended to protect property from overflow by water.

(g) “Identified parcel” means a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.

(h) (1) “Increased,” when applied to a tax, assessment, or property-related fee or charge, means a decision by an agency that does either of the following:

(A) Increases any applicable rate used to calculate the tax, assessment, fee or charge.

(B) Revises the methodology by which the tax, assessment, fee, or charge is calculated, if that revision results in an increased amount being levied on any person or parcel.

(2) A tax, assessment, fee, or charge is not deemed to be “increased” by an agency action that does either or both of the following:

(A) Adjusts the amount of a tax, assessment, fee, or charge in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996.

(B) Implements or collects a previously approved tax, assessment, fee, or charge, so long as the rate is not increased

beyond the level previously approved by the agency, and the methodology previously approved by the agency is not revised so as to result in an increase in the amount being levied on any person or parcel.

(3) A tax, assessment, fee, or charge is not deemed to be “increased” in the case in which the actual payments from a person or property are higher than would have resulted when the agency approved the tax, assessment, fee, or charge, if those higher payments are attributable to events other than an increased rate or revised methodology, such as a change in the density, intensity, or nature of the use of land.

(i) “Notice by mail” means any notice required by Article XIII C or XIII D of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited. Notice by mail may be included in any other mailing to the record owner that otherwise complies with Article XIII C or XIII D of the California Constitution and this article, including, but not limited to, the mailing of a bill for the collection of an assessment or a property-related fee or charge.

(j) “Record owner” means the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency.

(k) “Registered professional engineer” means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(l) “Vector control” means any system of public improvements or services that is intended to provide for the surveillance, prevention, abatement, and control of vectors as defined in subdivision (k) of Section 2002 of the Health and Safety Code and a pest as defined in Section 5006 of the Food and Agricultural Code.

(m) “Water” means any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water.

SEC. 3. Section 54984.7 of the Government Code is amended to read:

1 54984.7. (a) If the procedures set forth in this chapter have
2 been followed in a given year, the governing body may, by
3 resolution, continue the charge or assessment in successive years
4 at the same rate and in the same manner, but dispensing with the
5 requirement for mailed notice. The local agency shall cause notice
6 of the intent to adopt the resolution to be published pursuant to
7 Section 6066, prior to the date set for adoption, and shall hear any
8 and all objections at the time and place set forth in the notice. The
9 governing body shall, at the time and place specified, conduct the
10 hearing and consider all objections to the assessment, if any. The
11 governing body may, thereafter, adopt, revise, reduce, or modify
12 the assessment or charge, but may not increase the charge, or may
13 overrule any and all objections. The determination of the
14 governing body shall be final. *Dispensing with the requirement for*
15 *mailed notice pursuant to this subdivision does not affect any*
16 *requirement for obtaining a lien by recording a notice of lien.*

17 (b) Subdivision (a) shall not apply if the amount of the
18 assessment is increased, or if the governing body makes any
19 change in the areas subject to the assessment, compared to the prior
20 year's assessment. Notwithstanding other provisions of this
21 section, the governing body may adjust the amount of an
22 assessment in accordance with subdivision (a) if the adjustment is
23 made as provided in paragraph (2) of subdivision (h) of Section
24 53750.

